1942.

File No. L. R. C. Bom. II/42

Legal DEPARTMENT
B BRANCH

Subject:—

Rules and Notifications

under the

Bombay Land Revenue Code, 1879.

File No. L. R. C. Bom. II/42

Std. Scott. Slip 21-B

142-B

C O N T E N T S

Legal Department File No L.R.C. Pom II/42

Sr. No.	Compilation No.	Subject	Pages
1.	------	Legal Prof. Code 1870 Sec.25 Scrutiny of Notification Under	1-2
2.	G.T. & C.E. RD. No. 4335/39 dt 22-12-42	Sec. 214 Notification under	3-6
3.	G.R.T.D. No. 6064/39 dt. 14-8-42	Lands Alienated - Disposal of -	7-8
4.	U.R. to R.F. No.207 Dated 8-3-42	Sec. 4. Notification under	9-10
5.	U.R. to R.C. No.3132 dt. 13-3-42	Sec. 214 Scrutiny of Notification under	11-14
6.	U.R. to R.P. No.3323 dt 17-4-42	Forwarding Notification under	15-16
7.	G.T.T.D. No.7773-III dt. 24-3-42	Sec.214 Notification under	17-18
8.	G.R.R.D. No 7251/33 -III dt 24-3-42	------ Do- ------	19-20
9.	U.R. to R.D. No.2002 dt 17-4-42	Rule 62 Scrutiny of Notification under	21-24
10	U.R. to R.P. No.4268 dated 23-5-42	Sec. 7 Scrutiny of Notification under	25-28
11.	U.R. to R.P. No 4269 dt 23-5-42	Sec. 7 Scrutiny of Notification under	29-32
12.	U.R.t o R.P. No.3502 dt 8-5-42	Sec. 7 Scrutiny of Notification & Rules	33-38
13.	U.R. to R.D. No.6119 dt. 28-7-42	Scrutiny of Canal- Hotel Fees-	39-42
14.	U.R. to R.D.No.6577 dt. 17-8-42	Sec. 214 Scrutiny of Notification under	43-50
15.	U.R. to R.D. No 7809 dt. 29-9-42	Sec. 214 Scrutiny of Notification under	51-54
16.	G.R.R.D. No 7220/39 dt. 22-10-42	------ Do ------	55-56
17.	U.R. to R.P. No.6541 dt. 27-11-42	Sec. 7 Scrutiny of Notificati. under	57-60
	6705	Sec.214	

19. G.N.R.D. No. 8214/39 dt- 3-12-42	Sec. 214 Amendment to Rule 114 under	69-70
20. G.N.R.D. No 7765/39 dt. 10-12-42	Sec. 7 Notification under	71-72
21. U.R. to N.D. No.6973 dt 27-8-42	Rule 86(a) Opinion explaining intention of Proviso to Rule	73-74

Ur/30/4

415

Office of the R.L.A.

The draft notification under section 5 of the Indian Registration Act, 1908, on page 7 ante.- From entry No.(107) in column 3 against the Nasik sub-district formed under the Second Schedule to G.N.,R.D., No 1940/24, dated 1-11-1940 , it appears that the area in the Hatghara Killa Anjneri village has been included in the Nasik sub-district. It is proposed to amalgamate both the villages of Hatg or-a Killa Anjneri and Anjneri into one village and the new limits of the vill ge of Anjneri will include the area which originally formed the village of Hatghara Killa. As a result of the ~~amalgamation~~ amalgamation of these two villages, the limits of the Nasik sub-district are not altered. Consequently, as pointed out in ~~R.L.A's~~ R.L.A's U.R. to R.D. No.8674, dated the 4th October 1941 no notification under section 5 of the Indian Registration Act, 1908, is necessary. As the village of Hatghara Killa Anjneri will now cease to ~~exist~~ exist as a separate village and the area originally included in its limits will now be included in the limits of the village of Anjneri (vide entry No 58) in column 3 against Nasik Sub-district, the only t ing necessary is to delete the entry relating to "(107) Hatghara Killa Anjneri".- from the said column 3 of the Second Schedule to G.N.R.D.No.1940/24, dated 1.11.1940. The requisite draft erratum is appended.

2. The draft notification under section 7 of the Bombay Land Revenue Code, 1879, on page 15 ante. The view taken in paragraph 1 of R.D. office note dated 25-7-1941 on page 13 that a notification under section 7 of the Bombay Land Revenue Code is necessary, is not correct, vide R.L.A's opinion No. 540, dated 15.1.1940 printed in G.R.R.D. No. 2286/39, dated 14.2.1940

For Remembrancer of Legal Affairs

U.R. to R.D., No. , dated the 8 November 1941

Ut/30/4

Section 4 of the Bombay Land Revenue Code, 1879 (Bom V of 1879) provides inter alia that there shall be one or more Commissioners as the Provincial Government may direct and under section 5 of the said Act the appointments of Commissioners are to be made by the Provincial Government. Consequently, it will be necessary for the Government of Bombay to appoint Mr. H.J. Deasi, I.C.S., Settlement Commissioner and Director of Land Records as officiating Commissioner, C.D. in addition to his own duties, during the leave vacancy of Mr. D. Maclachlan, C.I.E., I.C.S. ~~the leave vacancy of~~

2. Section 3(3) of the Bombay Khoti Act, 1878 (Bom V of 1878) likewise contemplates the appointment by the Provincial Government of an Officer as a Commissioner for the purposes of the said Act. It will therefore be necessary to appoint Mr. G.V. Mc Elhinny, I.C.S., to officiate as Commissioner of Excise, in addition to his own duties, during the leave vacancy of Mr. E.G. Taylor, I.C.S. The draft notification on p.8, as slightly amended, is in order.

Sd/-
P. .N.
7/3
Remembrancer of Legal Affairs.

U.R. to the R.D., No. 2077 dated the 9th March 1942

Mr/30/4

~~cases of the N.L.A.~~

A revised draft notification is sent herewith

2. The Preamble of the R.D. draft Notification.

The R.D. draft notification amends rule 19 F of the Land Revenue Rules but in the preamble to the said notification it purports to supersede Notification No. 1016/30 dated the 4th June 1930. That notification is a draft notification and inserts new rule 19 GG. Reference to this draft notification appears to have been made through mistake and has been omitted from the revised draft.

3. In view of the draft amendment made in sub-rule (1) of rule 19 F, the words in sub-rule (2) namely, "and on the applicant depositing the amount prescribed in sub-rule (1)" are unnecessary and have been deleted in the revised draft.

Sd/-
P.N.N.
11/4

Remembrancer of Legal Affairs.

U.O. to the Revenue Department No 3102 dated the 13th day of April 1942.

Hr/30/4

Revenue Department.
Bombay Castle. 1942

The Bombay Land Revenue Code, 1879

No. 1016/30.- The following draft of a notification which the Government of Bombay proposes to issue, in exercise of the powers conferred by section 214 of the Bombay Land Revenue Code, 1879, (Bom V of 1879), and of all other powers enabling it in this behalf is published as required by sub-section (3) of the said section 214 for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after the .....
..... 1942

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay, Revenue Department, from any person with respect to the said draft before the date aforesaid will be considered by Government.

Draft Notification

In exercise of the powers conferred by section 214 of the Bombay Land Revenue Code, 1879(Bom V of 1879), the Government of Bombay is pleased to amend the Land Revenue Rules, (1921), as follows, namely:

In rule 107 of the said rules-

(a) to sub-rule (1), the following shall be added, namely:-

"The application shall be submitted

triplicate and shall be ~~accompaned~~ accompanied

by a treasury Chalan in respect of the amount deposited."

(b) in sub-rule (2), the words, brackets and figure "and on the applicant depositing the amount prescribed in sub-rule (1)" shall be deleted; and

(c) to sub-rule (6) the words "or as soon thereafter as possible" shall be added.

Vide para. 4 of Sir Govindrao Madgaonkar's letter at ~~D~~ 117 of the R.D. file 10/6/39-VII

By order of the Governor of Bombay

Secretary to Government

Mr/30/4

Office of the R.L.A.

The Draft notification on pp. 33-34 ante, as amended, is legally in order.

Sd/-
P.N.H.)
16/4

Remembrancer of Legal Affairs.

U.R.10 R.D. No. 3323, dated the 17th April 1942

Dr/20/4

Office of the R.L.A.

A revised draft notification is sent herewith

2. It is presumed that the proposed areas are within the limits of the Municipal Brough of Ahmednagar. The revised draft notification provides accordingly.

3. With reference to paragraph 3 of the Revenue Department draft notification onpage 135, the attention of the Revenue Department is invited to paragraph 5 of the Remembrancer of Legal Affairs' U.R. to R.D., No 5412, dated the 17th June 1941

Sd/-
N.K.D
6/4

for. Remembrancer of Legal Affairs

U.R. to R.D., No 2902 dated the 7th April 1942 .

ur/30/4

Revenue Department

Bombay Castle, April 1942

The Land Revenue Rules (1921)

No. .— In exercise of the powers conferred by rule 82 of the Land Revenue Rules (1921), the Government of Bombay is pleased to direct —

(a) that the said rule 82 shall apply to the areas within the limits of the Municipal Borough of Ahmednagar, specified in the schedule hereto annexed; and

(b) that the standard rate of non-agricultural assessment to be levied in respect of the said areas shall be Rs. 1-½-0 per 100 square yards.

Schedule.

(1) Area between the Delhi Gate and the Sarjapura Gate (Plot Nos. 26-A to 57, both inclusive)

(2) Area between the Delhi Gate and the Malegaon Gate (Plot Nos. 1 to 20, both inclusive).

By order of the Governor of Bombay

Secretary to Government.

tr/30/4

Office of the R.L.A.

The attention of the R.D. is invited to the remarks in this office U.R. to R.D. No. 3302, dated the 9th May 1942. Accordingly a revised draft erratum in place of draft erratum on p.5 ante and the requisite draft notification under section 7 of the Bombay Land Revenue Code, 1879, in respect of amalgamation of villages proposed in the seven cases accompanying this case, are sent herewith

2. For the sake of uniformity the names of villages specified in the revised notification under section 7 of the Bombay Land Revenue Code, 1879, have been spelt according to those given in R.D. Notification No 1940/24 dated the 1st November 1940.

Sd/-
R.R.D
22/5/

For Remembrancer of Legal Affairs.

U.R. to R.D. No./4208 , dated the 23rd May 1942 .

ur/30/4

NOTIFICATION
Bombay Castle, 1942.

The Bombay Land Revenue Code, 1879

No. — In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1879 (Bom V of 1879), the Government of Bombay is pleased to direct that they with effect from the * day of * 1942—

* To be filled in by R.D.

(a) the villages specified in column 2 of the Schedule hereto annexed in the talukas specified against them in column 1 of the said Schedule in the East Khandesh district shall cease to exist as separate villages; and

(b) the area of the said villages shall be included in and form part of, the villages respectively specified against them in column 3 of the said Schedule.

Schedule.

Names of Talukas	Names of Villages	Names of Villages
1	2	3
Raver	Gangapuri	Pandale
		Khurda
	Koparali)	Ainpur
	Mohogana)	Mohogana
	Khurda)	Dudruk
	and)	
	Mohogana)	
	Shiva)	
	Guli	Lohare
	Susti	Sulwadi
	Nandurkhede	Nandurkhede
	Khurda	Dudruk
Yawal	Khulni	Kingaon
		Khurd.

By order of the Governor of Bombay,

Secretary to Government

Lr/30/4

Office of the R.L.A.

The attention of the Revenue Department is invited to paragraph 2 of this office U.R. to R.D. No 3802, dated 9th May 1942. The requisite draft notification under section 9 of the Bombay Land Revenue Code, 1879, is sent herewith

Sd/-
H.K.B
22/5

For Remembrancer of Legal Affairs.

U.R. to R.D., No. 4269 , dated the 23rd May 1942.

Ltr/30/4

NOTIFICATION

Revenue Department

Bombay Castle 1942.

The Bombay Land Revenue Code, 1879

(No.) — In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1879 (Bom V of 1879), the Government of Bombay is pleased to direct that, with effect from the * Day of * 1942, —

To be filled in by R.D.

(a) the villages of Vagonal, Nand e-Dogar and Khana in the Kalwan Taluka of the Nasik district shall cease to exist as separate villages, and

(b) the areas of the said villages shall be included in, and form part of, the villages of Khadurdi, Kachi and Satgad respectively in the Kalwan taluka of the Nasik district

By order of the Governor of Bombay

Secretary to Government

Un/30/4

Office of the R. L.A.

The draft notification under section 5 of the Indian Registration Act. 1908, on page 7 ante.

From entry No.(107) in column 3 against the Nasik sub-district formed under the Second Schedule to G. N. R. D. No. 1940/24,dated 1.11.1940, it appears that the area in the Metghera Killa Anjneri village has been included in the Nasik sub-district. It is proposed to amalgamate both the villages of Metghera Killa Anjneri and Anjneri into one village and the new limits of the village of Anjneri will include the area which originally formed the village of the Metghera Killa. As a result of the Amalgamation of these two villages, the limits of the Nasik sub-district are not altered. Consequently, as pointed out in R.L.A.'s U. R. to R. D. No. 8674, dated the 4th October 1941 no notification under section 5 of the Indian Registration Act, 1908, is necessary. As the village of Metghera Killa Anjneri will now cease to exist as a separate village and as the area originally included in its limits will now be included in the limits of the village of Anjneri (vide entry No. (58) in column 3 against Nasik sub-district, the only thing necessary is to delete the entry relating to " (107) Metghera Killa Anjneri" from the said column 3 of the Second Schedule to G.N. R.D. No. 1940/24, dated 1.11.1940 The requisite draft erratum is appended.

8. The draft notification under section 7 of the Bombay Land Revenue Code, 1879, on page 15ante.

R.D. draft notification provides that the two villages of Metghera Killa and Anjneri in the Nasik taluka shall cease to exist as separate villages and the areas comprised therein shall be included within the limits of one village to be named

Anjneri in the said taluka. As held in R.L.A.'s opinion No. 1756 dated the 15th September 1922 and No. 2264 dated the 13th July 1927, the constitutions of the Nasik taluka is affected by the proposed amalgamation of the two villages. Therefore a notification under section 7 of the Bombay Land Revenue Code, 1879 is necessary. The requisite revised draft notification is sent herewith. Before it is issued blanks should be duly filled in by the R.D.

sd/- N.K.D.

For Remembrancer of Legal Affairs.

U.R. to R.D. No. 3892, dated 9th May 1942.

MRR.
2/6

Notification

Revenue Department

Bombay Castle, 1942

The Bombay Land Revenue Code, 1879

No. .--In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1879. (Bom. V of 1879), the Government of Bombay is pleased to direct that, with effect from the day of * 1942,

(a) the village of Metghera Killa in the Nasik taluka of the Nasik district shall cease to exist as a separate village, and

(b) the area of the said village of Metghera Killa shall be included in, and form part of, the village of Anjneri in the Nasik taluka of the Nasik district

The boundaries of the newly constituted village of Angneri shall be as follows:-

North - by * .....

East - by * .....

South - by * .....

West - by * .....

* To be filled in By R.D.

By order of the Governor of Bombay

Secretary to Government

N.B. For precedent please see G.N.,R.D., No 9083/24m dated 15.8 1927 on p. 1984, of B.G.G. 1927 July December pt. I (Below

Mr/30/4

Draft rules framed under Government Resolution, Revenue Department, No 505/33, dated 6th June 1934 in respect of land subjected to erosion by Luni river in the villages of Mahisa, Porda, Kaprupur of Sabar Kantha Agency.

1. The annual compensation fixed under Government Resolution, Financial Department, No 628, dated 12th February 1914 for lands washed away during the period from 1893 to 1907 is not liable to revision.

2. For the additional lands damaged after 1907 the extent of which was determined by actual survey in 1930-31, the compensation would be paid in lump up to 1930-31 and thereafter it would be in the form of an allowance payable annually as shown in statement B accompanying Government Resolution, Revenue Department, No 505/33, dated 6th June 1934

3. The next review of the condition of these lands boarding upon the said Luni river in the three villages mentioned would be undertaken in the year 1953-54 i.e. after 20 years from the date of the anove Government Resolution.

4. The island in the Mahisa village comprised of survey Nos. 138 to 158 enumerated in statement A accompanying the Government Resolution referred to anove would be enteree in the name of British Government in the accounts of the village Mahisa Japti so that grazing fees and miscellaneous revenue from Babul trees etc. could be entered in Government Khata and credited to Government after deducting 10 per cent for collection and other charges.

5. For surveys undertaken hereafter for determining the diluvion, charges thereof would be borne by the Government of Bombay while the labour charges would be met ~~rent~~ by the States concerned.

6. All marks of survey numbers bording on the river should be maintained at the cost of the occupants

occupants. The kind and the dimensions of these marks will be similar to those adopted in other survey numbers of the villages. The periodical inspection of these marks will be done by the staff enterined for the purpose in the said village. This inspection should not be postponed for more than 10 years in any case.

Mr/30/4

Office of the R.L.A.

A revised draft form of the Sanad is sent herewith.

Sd/- P.M.M.
25/7

Remembrancer of Legal Affairs.

W.R. to R.D., 611, dated the 29th July 1942

Mr/30/4

SANAD

To.

To be filled in

Whereas annual cash payments were fixed by Government Resolution, Financial Department, No 628, dated the 12th February 1914 and Government Resolution, Revenue Department, No 505/33, dated the 6th June 1934 as compensation for the damage done by the Luni river to the land in the village of ..... in the Vatrak-kantha Thana in the Sabar Kantha Agency and whereas the said annual cash payments are made in order to enable the grantees to meet their tribute engagements.

It is hereby declared that the annual allowance of Rs. * (Rupees *) being the amount after settlement now registered in the name of * will be continued permanently, subject to the following conditions, namely:.

(1) that the said annual allowance shall be paid to the lawful holder for the time being, whether such lawful holder's rights have accrued by ~~inherwise, so long as such holder~~ inheritance, adoption, assisgnment or otherwise, so long as such holder continues to be ~~liyal~~ loyal and faithful to the British Government;

(2) that there shall be no addition to the said allowance on account of further diluvion, unless for a survey undertaken in that behalf the labour charges are met by the state of ....., ~~tje~~ the cost of the staff being borne by the

Government of Bombay .

(3) That all marks of survey numbers in respect of his lands bordering on the Luni river shall be maintained at the cost of the said holder. The king and the dimension of these marks shall be similar to those adopted in case of survey numbers of other lands in the said village . A periodical inspection of these marks shall be made by the staff employed by the Government of Bombay for the purpose in the village. Such an inspection shall be made at least once in every 10 years.

Payable from the Treasury of the

To be inserted. ----------. *

This sanad is executed on behalf of the Governar of Bombay, by the Collector of Kaira.

This the day of 194

Place

Seal

Collector of Kaira.

Office of the R.L.A.

The Commissioner, Central Division, has failed to appreciate the legal position stated in paragraph 2 of the R.L.A's opinion No. 9978 dated 20th November 1941 at pages 23-25 ante. In order tha right of way may not be acquired by prescription, it is necessary that the license should be for permission to use a way over the land and not merely for the construction of the door. Consequently the form of license in the Revenue Department draft notification at pages 17 to 22 ante which grants permission merely to retain or construction the door is unsuitable. A revised draft notification containing a revised draft Form of license is sent herewith. The draft form of license is a tentative one. Revenue Department should examine it from the administrative point of view and see whether it carries out its intention (Cf. Precedent 12 at page 342 of the Encyclopaedia of "Form-s and Precidents" II Edition, Vol VI.).

2. It is not feasible for the reasons explained in paragraph 3 of R.L.A's opinion No. 9436 dated 24th October 1940 to provide that the Collector may get the door closed and recover the cost thereof as an arrear of land revenue. The provision contained in the concluding portion of condition (3) in the Revenue Department draft license has therefore been omitted in the rebised draft form of the license.

3. The Revenue Departmenr draft form of license provides that the Executive Engineer may grant licen in respect of doors opening on Government land in charge of the Public Works Department. This is not feasible. Under sub-section (3) of section 175 of the Government of India Act, 1935, all contracts on behalf of the Province shall be executed on behalf of the Governor by such persons as he may authorise. Until, therefore, the Executive Engineers are authorised to do so under section 175(3) of the Government of India Act, 1935, as in

as in the case of license to regularise projections such as balaconies, windows, etc. the the Executive Engineers cannot grant the licenses. The reference to Executive Engineers has therefore been deleted from the revised draft.

Sd/-
P.N.M.
15/8/42
Remembrancer of Legal Affairs.

U.R. to R.D., No 6677 dated the 17th August 1942

Mr/1/5

Office of the R.L.A.

A revised draft notification is appended.

2. Section 86 of the Bombay land Revenue Code, 1879, also provides for rendering assistance for the revocery of land revenue payable to superior holders by- co-shares in their holdings. It is presumed that the concession of one application for such assistance is to be extended for the recovery of land regenue payable by co-shares. The revised draft provides accordingly.

Sd/-
P.M.M.
28/9/

Rehembrancer of legal Affairs.

U.R. to R.D., No 7906 dated 29th September 1942.

Mr/1/5

NOTIFICATION
Revenue Department.

Bombay Castle, 1942

Bombay Land Revenue Code, 1879

No. 7302/39 .- The following draft of a notification which it is proposed to issue under section 214 of the Bombay Land Revenue Code, 1879 (Bom V of 1879), is published as required by sub-section (3) of the said section 214 for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration by the Government of Bombay on or after the

1942

N. Any objection or suggestion which may be received by the Secretary to the Government of Bombay, Revenue Department, from any person with respect to the said draft before the aforesaid date will be considered by Government.

Draft Notification

In exercise of the powers conferred by section 214 of the Bombay Land Revenue Code, 1879 (Bom V of 1879), the Government of Bombay is pleased to amend the Land Revenue Rules 1921), as follows namely:-

After rule 119 of the said rules the following new rule shall be inserted, namely:-

"119 A. A superior holder seeking assistance under section 86 for the recovery of rent or land revenue payable to him by inferior holders, or by co-sharers in his holding may make one application in respect of all or any number of the inferior holders or co-sharers if the land in respect of which the rent or land revenue is payable by them is situated in one and the same.

Superior holder may make only one application under section 86 in respect of inferior holders or co-sharers in his holding in one and the same village

Mr/1/8

Village.2

By order of the Governor of Bombay

Secretary to Government

Mr/1/5

Office of the R.L.A.

A revised draft notification is sent herewith.

Sd/-
N.K.D.
27/11

Remembrancer of Legal Affairs.

U.R. to R.D., No. 9541, dated the 27th November D 42

Mr/1/S

Revenue Department

Bombay Castle, 1942

Bombay Land Revenue Code, 1879

No. 7766/39.- In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1879 (Bom. v of 1879), the Government of Bombay is pleased to direct that the villages specified in the following Schedule and heretofore include in the Bagalkot Taluka of the Bijapur District, shall be excluded therefrom and shall be included in and form part of the Bilgi peta of the said district with efect from the 16th day of June 1942.

Schedule

1. Anagwadi
2. Kadapatti
3. Tammarmatti
4. Uelligutti
5. Herkal
6. Tolmatti
7. Mannikeri
8. Yattinahatti
9. Badardinni
10. Honnihal
11. Kandgal

By order of the Governor of Bombay,

Secretary to Government.

Mr/1/5

The R.D, proposes amendment of the draft rule 47-B(1) and the draft licenses suplied to it with this office U.R. No 6677, dated 27th August 1942 The draft rule is proposed to be amended on the ground that its wording is involved. It appears that R.D. has not appreciated the legal implications pointed out in R.L.A's opinions No. 9978 , dated 20th November 1941 and No 6677, dated 17th August 1942 As stated in these opinions every person has an inherent right to construct as many doors as he likes in his own building and that in order that a right of way may not be acquired by prescription It is necessary that the license should be for permission to use a way over the land and not merely for the construction of the door. It was therefore necessary to make it clear in the draft rule that permission to be granted by the Collector is not merely for the construction or retention of a door opening on Government land, but that permission is with reference to the use of a way over the land in respect of the door. The rule as proposed to be amended by the R.D. office in paragraph 5 of its note at page 54 ante does not carry out the implication involved in the grant of a permission to construct or retain a door opening on Government land. The R.D. critiesm that the draft rule is involved is therefore misconceived.

2. As regards the amendments in the draft license at pages 48-51 ante it appears that R.D. apprehend that under the draft license as it stands the licen will get a right of way over the land to the exclu of any other people but this apprehension of R.D. without foundation. Under the draft license all the the licensee gets is a permission to use a partic way

over Government land. It only legalises a particular act which would otherwise be unlawful. It by no means confers any right upon the licensee to stop other people from using the way or fence it or erect any barrier thereon. In other words it is not an exclusive license to do a thing coupled with a contract not to given license to any body else to do the same thing. The amendments proposed by the R.D. in the draft license are therefore unnecessary

3. As regards paragraph 2 of Secretary, R.D.'s note dated 12th October 1942 at page 56 ante, under the draft rule and the license the licensee gets permission to construct/open/or retain a door opening on Government land with reference to the use of a way over the land . It would therefore appear that as soon as the license is terminated the licensee will have no right to use the way and if he uses the same he will be a treaspasser on Government land and can as such be dealt with according to law. It would not therefore be necessary to stipulate with the licensee that the Collector should have power to close the door on the termination of the license. Morevoer as pointed out in R.L.A's opinion No 8978, dated 20th November 1942, the licensee has the inherent right to construct as many doors as he likes in his own building and it would therefore be open to him to constr ct any other door in his building after the door he had constructed ed is closed; nay, even to reopen the door so closed. No useful purpose will therefore be served by inserting a condition in the license as at "A" on page 13 ante. If, however, Secretary, R.D., considers the insertion indispensable, there is no legal objection to the insertion.

4. A revised draft notification as slightly amended is sent herewith.

Sd/- P.M.M
4/12
Remembrancer of Legal Affairs.

U.R. to R.D.., No. 9785, dated the 7th December 1942.

Mr/1/5

The question in the present case is to clarify the intention underlying the provision in the second proviso to rule 66(a) of the Land Revenue rules as stated in paragraph 4 of Secretary, Revenue Department's note at p.19 ante. The object of the proviso was to given concession of exemption from the levy of non-agricultural assessment to co-operative/~~financing~~ housing societies in case of building sites which are not built upon, for ~~certain~~ certain periods. In his opinion No. 5991, dated 23rd July 1962, the Secretariat of Legal Affairs has however held that rule 66(a) as at present worded is of doubtful vires. Land orginally assessed for agriculture may be permitted to be used for non-agricultural purposes but it may/may not be so used or not be so used for several years together. Under rule 80 of the said rules, Chapter XIV including rule 66(a) of the rules has no application unless and until unalienated land assessed or held for purpose of agriculture only is subsequently used for a purpose unconnected with agriculture. It has been held that mere grant of permission under section 65 of the Code does not enable Government to levy non-agricultural assessment unless and until the land is actually used for non-agricultural purposes. In view of this position as the concession in this case relates to exemption from the levy of non-agricultural assessment of land assessed for agriculture but non built upon after the grant of permission under section 65, the question of granting such concession does not survive. The rule will have to be amended by deleting reference to any such concession.

Remembrancer of Legal Affairs
U.O. to R.D., No. 6979, dated the 27th August 19--
Hr/5/5